



POLICE DEPARTMENT CITY OF NEW YORK

May 31, 2017

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Willie Lucas  
Tax Registry No. 947190  
Transit Bureau District 32  
Disciplinary Case No. 2016-16372  
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**Charge and Specification:**

1. Said Police Officer Willie Lucas, while assigned to Transit Bureau District 32, on or about December 30, 2015, failed to make a timely notification to the Sick Desk and his Command that he would be arriving late for his tour of duty, to wit, said officer was scheduled to appear for a tour of duty at 1500 hours and did not arrive until 1600 hours.

P.G. 206-03, page 2, paragraph 32 – PATROL GUIDE VIOLATIONS

P.G. 203-10, page 1, paragraph 5 – PROHIBITED CONDUCT

**Appearances:**

For the Department: Penny Bluford-Garrett, Esq.  
Assistant Department Advocate  
Department Advocates' Office  
One Police Plaza, 4<sup>th</sup> floor  
New York, NY 10038

For the Respondent: John Tynan, Esq.  
Worth, Longworth & London, LLP  
111 John Street-Suite 640  
New York, NY 10038

**Hearing Date:**

May 22, 2017

**Decision:**

Guilty

**Trial Commissioner:**

ADCT Robert W. Vinal

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on May 22, 2017. Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Assistant Department Advocate called Police Administrative Aide Jacqueline Smith, Sergeant Anthony Ramos and Lieutenant Mizbah Noor, as witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, Respondent is found Guilty.

## FINDINGS AND ANALYSIS

It is uncontested that on December 30, 2015, Respondent was assigned to Transit Bureau District 32 (TD 32), located in Crown Heights, Brooklyn, and that he was scheduled to work a full tour of duty that day, performing patrol duties at a foot post, commencing at 1500 hours. Respondent testified that on the morning of December 30, 2015, he was experiencing severe pain in his knee as the result of an injury he had suffered while off-duty. Respondent decided to go to Medical District 20 in Long Island City, Queens (MD 20), to have his knee examined by a Department doctor. Respondent arrived at MD 20 at 1215 hours and his Department ID was scanned in upon his arrival. [As documented in the MD 20 "Clinic Visit Report," Department's Exhibit (Dept. Ex.) 1]. Respondent had to wait until 1350 hours to be examined by a physician. At 1450 hours, the physician who examined his knee took him off "full duty" status and placed him on "limited capacity" status. Respondent scanned out of MD 20 at 1451 hours (Dept. Ex. 1). Respondent then drove from Long Island City, Queens to Crown Heights, Brooklyn.

Police Administrative Aide (PAA) Jacqueline Smith testified that she was serving as the notification PAA at MD 20 on December 30, 2015, and that after the physician who examined Respondent told her that Respondent was being taken off full duty status and being placed on limited duty status, she telephoned TD 32 at 1450 hours, notified the desk officer, Sergeant Ramos, about this duty status change and documented her call on the MD 20 "Clinic Visit Report" (Dept. Ex. 1).

Sergeant Anthony Ramos testified that he was serving as the desk officer for the second platoon at MD 20 on December 30, 2015, and that when he received PAA Smith's call informing the command that Respondent's duty status had been changed from full duty to limited duty, he entered this information in the desk log. At about 1500 hours, he was relieved at the desk by Lieutenant Noor. On cross-examination, Ramos testified that Respondent was supposed to be present at TD 32 at 1500 hours to start his tour.

Lieutenant Mizbah Noor testified that he was assigned to serve as the desk officer for the third platoon at MD 20 on December 30, 2015, and that at 1500 hours, he relieved Ramos at the desk. Shortly after 1505 hours, he was informed that Respondent had not been present at roll call at 1505 hours. He began asking around the command to ascertain if anyone knew where Respondent was and someone told him that Respondent was at the District Surgeon's office. At about 1550 hours, Respondent walked into TD 32. When Noor asked him whether he had notified anyone that he was at the District Surgeon's office, Respondent replied, "No." On cross-examination, Noor confirmed that between 1505 hours and 1550 hours, he did not pull Respondent's "Ten Card" to obtain Respondent's phone number and other contact information. Noor also confirmed that after Respondent arrived at the command, he was assigned as the

Telephone Switchboard Operator (TSO) and that he worked a full tour of eight hours and 35 minutes.

Respondent agreed that he could have called his command and requested to take an emergency leave day (E-day) but he did not do so because December 30, 2015 fell within a holiday period and "it is frowned upon" for an officer to ask to take an E-day during a holiday period. Respondent asserted that while he was waiting at MD 20 to be examined, he did not call his command because he was unsure as to what his post-examination duty status would be. Respondent asserted that between 1530 and 1540 hours, some of his fellow officers called him on his cell phone and that he called the TD 32 desk and informed Lieutenant Noor that he was at MD 20 and that Lieutenant Noor told him, "We'll start your tour when you get here." Respondent asserted that when he arrived at TD 32 at 1600 hours, Lieutenant Noor said nothing to him about whether he had tried to call the command. On cross-examination, Respondent acknowledged that at about 1430 hours he knew that because he had to drive from MD 20 in Long Island City, Queens, to TD 32 in Crown Heights, Brooklyn, he was going to be late for the start of his tour at 1500 hours, but he did not call the TD 32 desk to report this. Respondent confirmed Noor's testimony that after he arrived at the command, and because he was now on limited duty status, he was assigned as the TSO and that he proceeded to work a full tour of eight hours and 35 minutes.

### **Analysis**

Respondent testified that on the morning of December 30, 2015, he did not believe that he would be able to perform a full tour of duty on foot patrol that day because of the injury to his knee and that is why he went to MD 20 to have his knee examined. Patrol Guide Procedure No. 205-01(1) places uniformed members on notice that when an injury prevents the performance of

duty, the member must "(n)otify desk officer/supervisor at assigned command by telephone, in person, or by competent messenger at least two hours before the start of a scheduled tour."

Respondent's testimony that he was unsure as to what his post-examination duty status would be until he was told at 1450 hours that he was being placed on limited duty, does not excuse his failure to call his command at 1300 hours, two hours before the start of his tour which he knew was scheduled to commence at 1500 hours, and report that he was physically present at MD 20 waiting to see a doctor regarding an injury that could prevent him from performing full duty that day, as it did.

Even if Respondent was aware that PAA Smith had called his command at 1450 hours to report his changed duty status, her call did not relieve Respondent of his personal responsibility to comply with Patrol Guide Procedure No. 205-01(1) by notifying his command two hours before the scheduled start of his tour. Thus, even if I credited Respondent's claim that between 1530 and 1540 hours he called the TD 32 desk and spoke to Lieutenant Noor, the fact that he made this call at least 30 minutes after the scheduled start of his tour does not constitute timely notice to his command under Patrol Guide Procedure No. 205-01(1). Therefore, I find Respondent guilty as charged.

### PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. *See Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on July 8, 2008. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached Confidential Memorandum. Respondent has no prior disciplinary record.

The Advocate recommended that Respondent forfeit five vacation days as a penalty. The Advocate cited two previous disciplinary decisions to support this penalty recommendation. In

*Case No. 2013-10614* (signed Dec. 11, 2014), a 16-year sergeant who had no prior formal disciplinary record forfeited eight vacation days as a penalty after she pleaded guilty to reporting 55 minutes late to her assigned post. However, the sergeant also pleaded guilty to charges that she failed to make proper activity log entries; that she wrote illegible activity log entries; and that she failed to immediately respond to two radio calls (one involving a burglary and one involving a dead human body).

The Advocate also cited *Case No. 2015-13391* (signed Sept. 1, 2015), where a three-year police officer forfeited ten vacation days as a penalty after he pleaded guilty to all of the charges brought against him. However, the officer's misconduct in that case is quite different from the misconduct here because the officer, while on duty, left his assigned command in Brooklyn and drove a Department vehicle to his parents' home [REDACTED] without having requested or received permission to do so. The officer also pleaded guilty to having failed to make activity log entries regarding his trip [REDACTED] and regarding his activities during the last three hours of his tour.

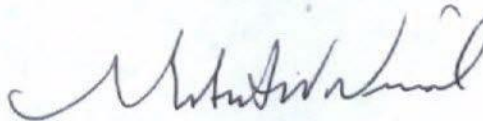
In a recent case, *Case No. 2016-15446* (signed March 7, 2017), where the officer's misconduct was somewhat similar to, but more egregious than, Respondent's misconduct here, a 13-year officer who had no prior disciplinary record forfeited five vacation days after he pleaded guilty to two charges. In that case, the officer started his tour by attending a scheduled appointment at Medical District 18. After this medical appointment was completed, he scanned out. However, instead of reporting to his command in Manhattan, the officer, without authorization, traveled to the Medical Division at Lefrak City, Queens, where he conducted personal business. He then returned to Medical District 18 where he scanned in again and then, three minutes later, scanned out again. He arrived at his command three and a half hours after he

initially scanned out of Medical District 18 and he did not document his trip to the Medical Division at Lefrak City in his activity log.

In determining a penalty recommendation here, I have also taken into consideration that Respondent was a seven-year member of the service when this incident took place; that he has no prior disciplinary record; and that after he arrived at his command, he worked a full tour of duty.

Since Respondent here has only been found guilty of having failed to make a timely notification to the Sick Desk and his Command that he would be arriving late for his tour of duty, it is recommended that Respondent forfeit two vacation days as a penalty.

Respectfully submitted,



Robert W. Vinal  
Assistant Deputy Commissioner Trials

**APPROVED**

OCT 16 2017



JAMES P. O'NEILL  
POLICE COMMISSIONER





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER WILLIE LUCAS  
TAX REGISTRY NO. 947190  
DISCIPLINARY CASE NO. 2016-16372

Respondent received an overall rating of 3.0 on his 2016 performance evaluation, 3.0 on his 2015 evaluation, and 3.0 on his 2014 evaluation. He has no medals. [REDACTED]

[REDACTED] He has no monitoring records and he has no prior disciplinary record.

For your consideration.

Robert W. Vinal  
Assistant Deputy Commissioner – Trials